

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

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| IN RE PHARMACEUTICAL INDUSTRY |) | MDL No. 1456 |
| AVERAGE WHOLESALE PRICE LITIGATION |) | Master File No. 01-12257-PBS |
| |) | Subcategory Case No. 06-11337 |
| THIS DOCUMENT RELATES TO: |) | Judge Patti B. Saris |
| <i>State of California, ex rel. Ven-A-Care of the Florida</i> |) | Magistrate Judge |
| <i>Keys, Inc. v. Abbott Laboratories, Inc., et al.</i> |) | Marianne B. Bowler |
| Case No: 1:03-cv-11226-PBS |) | |

**DECLARATION OF CHRISTOPHER C. PALERMO IN SUPPORT OF
DEFENDANTS MYLAN INC. AND MYLAN PHARMACEUTICALS INC.'S
OPPOSITION TO PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT**

CHRISTOPHER C. PALERMO declares, pursuant to 28 U.S.C. § 1746, that:

1. I am a partner of the law firm of Kelley Drye & Warren LLP, national counsel for Defendant Mylan Inc. (formerly known as Mylan Laboratories Inc.), Mylan Pharmaceuticals Inc. (collectively "Mylan"). I am admitted to practice law in the State of New York and have been admitted *pro hac vice* in this action.

2. I make this declaration in opposition to Plaintiffs' Motion for Partial Summary Judgment. I make this declaration from my own personal knowledge of the facts and circumstances set forth herein. The source of my knowledge is my review of Kelley Drye & Warren LLP's files with respect to this litigation, including my review of the documents annexed as exhibits hereto.

3. Annexed hereto as Exhibit A is a true and correct copy of excerpts from the deposition of Mylan's corporate designee, Brian Roman, taken on November 16, 2006.

4. Annexed hereto as Exhibit B is a true and correct copy of excerpts from the deposition of Harry A. Korman, taken on November 26, 2007.

5. Annexed hereto as Exhibit C is a true and correct copy of excerpts from the deposition of J. Kevin Gorospe, taken on September 22, 2008.

6. Annexed hereto as Exhibit D is a true and correct copy of excerpts from the deposition of Mylan's corporate designee, David Workman, taken on June 26, 2008.

7. Annexed hereto as Exhibit E is a true and correct copy of excerpts from the deposition of Mylan's corporate designee, Brian Roman, taken on July 26, 2006.

8. Annexed hereto as Exhibit F is a true and correct copy of excerpts from the deposition of David Workman, taken on June 26, 2008.

9. Annexed hereto as Exhibit G is a true and correct copy of excerpts from the deposition of Mylan's corporate designee, Brian Roman, taken on August 2, 2007.

10. Annexed hereto as Exhibit H is a true and correct copy of excerpts from the deposition of Robert Cunard, taken on October 26, 2007.

11. Annexed hereto as Exhibit I is a true and correct copy of excerpts from the deposition of Mylan's corporate designee, Harry A. Korman, dated November 26, 2007.

12. Annexed hereto as Exhibit J is a true and correct copy of excerpts from the deposition of David Workman, taken on October 15, 2008.

13. Annexed hereto as Exhibit K is a true and correct copy of excerpts from the deposition of David Workman, taken on September 26, 2007.

14. Annexed hereto as Exhibit L is a true and correct copy of the rebate agreement entered into between Mylan Pharmaceuticals Inc. and the Secretary of Health and Human Services, dated February 11, 1991.

15. Annexed hereto as Exhibit M is a true and correct copy of excerpts from the deposition of Harry A. Korman, taken on March 25, 2009.

16. Annexed hereto as Exhibit N is a true and correct copy of excerpts from the deposition of Stephen B. Krinke, taken on September 25, 2007.

17. Annexed hereto as Exhibit O is a true and correct copy of a document bearing bates numbers TXMylan02893475-TXMylan02893477.

18. Annexed hereto as Exhibit P is a true and correct copy of excerpts from the deposition of Tony Mauro, taken on October 31, 2008.

19. Annexed hereto as Exhibit Q is a true and correct copy of excerpts from the deposition of Robert Potter, taken on November 25, 2008.

20. Annexed hereto as Exhibit R is a true and correct copy of excerpts from the deposition of Harry A. Korman, taken on October 08, 2009.

21. Annexed hereto as Exhibit S is a true and correct copy of Exhibit 23 to the deposition of Mike Namba, taken on April 23, 2009.

22. Annexed hereto as Exhibit T is a true and correct copy of Exhibit 56 to the deposition of Kevin Gorospe, taken on September 22, 2008.

23. Annexed hereto as Exhibit U is a true and correct copy of excerpts from the deposition of Mike Namba, taken on April 23, 2009.

24. Annexed hereto as Exhibit V is a true and correct copy of excerpts from the deposition of Robert Cunard, taken on October 30, 2008.

25. Attached hereto as Exhibit W is a true and correct copy of the Expert Report of Professor W. David Bradford, Ph.D., filed on July 30, 2009 in *State of California ex rel. Ven-A-Care of the Florida Keys, Inc. v. Abbott Laboratories*, Master File No. 01-12257-PBS (D. Mass.), filed under seal.

26. Annexed hereto as Exhibit X is a true and correct copy of excerpts from the deposition of Patricia Morgan, taken on August 27, 2007.

27. Attached hereto as Exhibit Y is a true and correct copy of excerpts from the deposition of Cardinal Health's 30(b)(6) designee, Matthew Erick, taken on June 27, 2008, filed under seal.

28. Attached hereto as Exhibit Z is a true and correct copy of excerpts from the deposition of McKesson Corporation's 30(b)(6) designee, Saul Factor, taken on June 20, 2008, filed under seal.

29. Attached hereto as Exhibit AA is a true and correct copy of excerpts from the deposition of McKesson Corporation's 30(b)(6) designee, Saul Factor, taken on September 4, 2008, filed under seal.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on December 21, 2009.

/s/ Christopher C. Palermo
Christopher C. Palermo

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Declaration of Christopher C. Palermo in Opposition to Plaintiffs' Motion for Partial Summary Judgment as to Mylan Inc. and Mylan Pharmaceuticals Inc. was delivered to all counsel of record by electronic service pursuant to Paragraph 11 of Case Management Order No. 2, by sending on December 21, 2009 a copy to LexisNexis File & Serve for posting and notification to all parties.

/s/ Christopher C. Palermo

Christopher C. Palermo